

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

DONALD BROWN,

:

Plaintiff

:

CIVIL ACTION NO. 3:20-998

v.

:

(MANNION, D.J.)

ANGELA HOOVER, et al.,

:

Defendants

:

ORDER

Presently before the court is the Report and Recommendation (“Report”) of Magistrate Judge Martin C. Carlson. ([Doc. 14](#)). In it, Judge Carlson recommends that the plaintiff Donald Brown’s complaint, ([Doc. 1](#)), be dismissed without prejudice to renew if Brown complies with the court’s orders. No objections to the Report have been filed.

Even where no objection is made, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” [Fed.R.Civ.P. 72\(b\)](#) advisory committee notes; see also [Univac Dental Co. v. Dentsply Intern., Inc.](#), 702 F.Supp.2d 465, 469 (M.D.Pa.2010) (citing [Henderson v. Carlson](#), 812 F.2d 874, 878 (3d Cir.1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the

findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); M.D.Pa. Local Rule 72.31.

Judge Carlson observes that Brown has failed to comply with the court's June 23, 2020, and August 20, 2020 orders, (Doc. 5; Doc. 12), directing him, and those other plaintiffs on whose behalf he purported to file a complaint,¹ *inter alia*, to pay the filing fee or to move to proceed *in forma pauperis* and to file individual complaints. Judge Carlson notes that, pursuant to the Local Rules, Brown should be considered to have abandoned this suit and that dismissal is warranted under Rule 41(b) of the Federal Rules of Civil Procedure. Judge Carlson applied the requisite *Poullis* factors and determined that, insofar as they could be applied to the instant case, all weighed in favor of dismissal. Judge Carlson observed, however, that the meritoriousness of Brown's case could not be ascertained since Brown has not complied with his most basic obligations as a litigant—to file a complaint and a motion for leave to proceed *in forma pauperis* and to comply with court orders. Accordingly, the Report recommends that, since Brown has failed to file these crucial

¹ As the Report observes, what is styled as a "Complaint" on the docket is, in fact, a "Motion for Mandatory Temporary Restraining Order and Injunction." (Doc. 1).

documents and because the case cannot proceed without them, the case be dismissed without prejudice.

Having reviewed all pertinent filings, the court finds the Report of Judge Carlson to be well-reasoned and well-supported. As such, the court will adopt the Report in its entirety as the decision of the court.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

(1) Judge Carlson's Report, ([Doc. 14](#)), is **ADOPTED IN ITS**

ENTIRETY;

(2) Brown's Complaint, ([Doc. 1](#)), is **DISMISSED WITHOUT**

PREJUDICE; and

(3) The Clerk of Court is directed to **CLOSE THIS CASE.**

s/ Malachy E. Mannion

MALACHY E. MANNION

United States District Judge

DATE: November 2, 2020

20-998-01